

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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DAVID GONZALEZ,
Plaintiff,
vs.
CLARK COUNTY, EX REL-THE CLARK
COUNTY SHERIFF'S OFFICE, SGT.
ASPIAZU, 7117, CO HOOD, #9902,
Defendants.

2:17-cv-00607-JAD-VCF
ORDER

MOTION TO COMPEL DISCOVERY (ECF No. 31)

Before the Court is Plaintiff David Gonzalez's Motion to Compel Discovery. (ECF No. 31). For the reasons discussed below, the motion is denied without prejudice.

On September 13, 2017, the Court referred the case to the Inmate Early Mediation Program, referred the case to the Pro Bono Program, and stayed the case “for 60 days to allow the parties an opportunity to settle their dispute.” (ECF No. 30). On October 3, 2017, less than 60 days later, Plaintiff filed a motion to compel discovery. (ECF No. 31). Defendants opposed the motion, arguing it was filed while the case was stayed. (ECF No. 32). The stay was subsequently extended to January 3, 2018. (ECF No. 35). However, the case has now been removed from both the Inmate Early Mediation Program and the Pro Bono Program. (ECF No. 37).

“It is well established that ‘[d]istrict courts have inherent power to control their docket,’” including the authority to strike items filed in violation of a court order such as a stay. *Ready Transp., Inc. v. AAR Mfg., Inc.*, 627 F.3d 402, 404 (9th Cir. 2010) (quoting *Atchison, Topeka & Santa Fe Ry. v. Hercules, Inc.*, 146 F.3d 1071, 1074 (9th Cir.1998)); *Almy v. Davis*, No. 2:12-CV-00129-JCM-VCF, 2014 WL 773813,

1 at *5 (D. Nev. Feb. 25, 2014). Rather than strike Plaintiff's motion to compel, the Court will deny it
2 without prejudice and allow Plaintiff the opportunity to refile the motion.¹

3 The Court will also lift the stay in this case, as the case has now been removed from both the
4 Inmate Early Mediation Program and the Pro Bono Program. Based on the stay in this case, the Court
5 now extends the discovery deadlines as follows:

6	Discovery Cut-off	February 28, 2018
7	Dispositive Motions	March 29, 2018
8	Joint Pretrial Report	April 30, 2018

9 Accordingly,

10 IT IS HEREBY ORDERED that Plaintiff's Motion to Compel Discovery (ECF No. 31) is
11 DENIED WITHOUT PREJUDICE.

12 IT IS FURTHER ORDERED that the stay in this case is lifted.

13 IT IS FURTHER ORDERED that the discovery deadlines be extended as described above.

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15 **NOTICE**

16 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and
17 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk
18 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal
19 may determine that an appeal has been waived due to the failure to file objections within the specified
20 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections
21 within the specified time and (2) failure to properly address and brief the objectionable issues waives the
22 right to appeal the District Court's order and/or appeal factual issues from the order of the District Court.

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25 ¹ This will also give Plaintiff the opportunity to address the meet and confer argument raised by Defendants in their opposition
to Plaintiff's motion. (ECF No. 32).

1 *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452,
2 454 (9th Cir. 1983).

3 Pursuant to Local Special Rule 2-2, the Plaintiff must immediately file written notification with
4 the court of any change of address. The notification must include proof of service upon each opposing
5 party of the party's attorney. **Failure to comply with this Rule may result in dismissal of the action.**

6 See LSR 2-2.

7 IT IS SO ORDERED.

8 DATED this 13th day of November, 2017.



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10 CAM FERENBACH
11 UNITED STATES MAGISTRATE JUDGE
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